

Derek Smith Law Group, PLLC

Employment Lawyers Representing Employees Exclusively

October 10, 2017

VIA ECF

Honorable Lois Bloom
United States District Court
Eastern District of New York
225 Cadman Plaza E,
Brooklyn, NY 11201

Re: Brooks v. The Doe Fund, Inc. et al

Case No.: 1:17-cv-03626-PKC-LB

Dear Judge Bloom:

Our firm represents Gregory Brooks ("Plaintiff") in the above-mentioned litigation. Plaintiff writes pursuant to 3 of Your Honor's individual rules to request additional time to serve two individual Defendants who were employees of Defendant Doe Fund, Defendant Cooper and Defendant Wiggins. Currently a Status Conference with Your Honor is scheduled for October 31, 2017, however Defendant Cooper and Defendant Wiggins have not appeared in the case.

Plaintiff has not abandoned serving these individuals. Since filing the initial complaint on June 15, 2017, Plaintiff has made diligent attempts to serve Defendant Cooper and Defendant Wiggins. First Plaintiff attempted service on Defendants at their former place of employment, under the belief they were still employed. Second, we used the information Plaintiff provided to in a "People Map" public records search of the Defendants. Results for Defendant Cooper showed two possible addresses:

297 SMITHWOLD RD
SOMERSET, NJ 08873-4857

5422 Avenue O
BROOKLYN, NY 11234

Results for Defendant Wiggins showed:

2205 2ND AVE APT 6B
NEW YORK, NY 10029-2238

Service was attempted on Defendant Cooper on June 26, 2017, July 21, 2017, July 28, 2017, August 9, 2017, and August 17, 2017. On one such attempt, an alleged co-tenant of Defendant Cooper accepted service (please see attached affidavits). On August 9, 2017, Plaintiff filed a summons returned executed. However, on October 6, 2017, Plaintiff received notice from Defendant Cooper's attorney stating, "He does not reside at the address at which he was purportedly served and he did not authorize anyone there to accept service on his behalf."

Regarding Defendant Wiggins, service was attempted on Defendant Wiggins on June 26, 2017, July 26, 2017, August 3, 2017, August 31, 2017, and September 14, 2017 (please see attached affidavits). Despite these attempts, Defendant Wiggins was not served and Plaintiff only obtained affidavits of due diligence.

Moreover, pursuant to Your Honor's September 26, 2017 order Defendants' counsel has provided Plaintiff with the last-known addresses for Defendant Cooper and Defendant Wiggins. These addresses are different from other addresses service has been attempted. Plaintiff is hopeful that this new information will result in service. However, additional time is necessary to serve Defendants. This is Plaintiff's first request for request additional time to serve any Defendants in this matter.

We thank the court for its time and attention to this matter.

Respectfully submitted,

DEREK SMITH LAW GROUP PLLC

_____/s/
Derek T. Smith

CC: Lori Diane Bauer, Esq. (ECF)
Kevin Patrick Connolly, Jr., Esq. (ECF)
Peter T. Shapiro, Esq. (ECF)

Affidavits Concerning Defendant Cooper

UNITED STATES DISTRICT COURT/EASTERN DISTRICT OF NEW YORK

Attorney: DEREK SMITH LAW GROUP,
PLLC

GREGORY BROOKS

Plaintiff(s)

- against -

Index # 17 CV 03626 PKC LB

Purchased June 15, 2017

THE DOE FUND, INC., ETAL

Defendant(s)

AFFIDAVIT OF DUE DILIGENCE

STATE OF NEW YORK: COUNTY OF NEW YORK ss:

MOHAMED HUSSEIN BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION, OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

DEREK SMITH LAW GROUP, PLLC requested that I serve a copy of the SUMMONS AND COMPLAINT in the above action for personal service upon TERRY COOPER at

C/O THE DOE FUND, INC.
520 GATES AVENUE
BROOKLYN, NY 11216

Your deponent made proper and diligent effort to serve said process on the above named person(s). I called at the aforementioned address on

Date: 06/26/17 Time: 1104 Reason: AT THE GIVEN ADDRESS IS "THE DOE FUND, INC".
I SPOKE TO AN EMPLOYEE NAMED "JAMES WASHINGTON" WHO TOLD ME THE DEFENDANT IS NO
LONGER EMPLOYED.

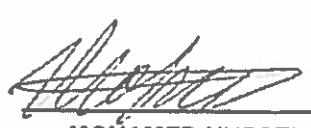
Your deponent verily believes that he will be unable to effect personal service upon the above named person(s) herein, although your deponent made due and diligent efforts to effect same.

Sworn to me on: June 30, 2017

JOSEPH KNIGHT
Notary Public, State of New York
No. 01KN6178241
Qualified in New York County
Commission Expires November 26, 2019

RALPH J MULLEN
Notary Public, State of New York
No. 01MU6238632
Qualified in New York County
Commission Expires April 11, 2019

VIETTA BREWER
Notary Public, State of New York
No. 4949206
Qualified in Bronx County
Commission Expires April 3, 2019


MOHAMED HUSSEIN
License #: 2047473
Invoice #: 674937

UNITED STATES DISTRICT COURT/EASTERN DISTRICT OF NEW YORK

Attorney: DEREK SMITH LAW GROUP,
PLLC

GREGORY BROOKS

Plaintiff(s)

- against -

Index # 17 CV 03626 PKC LB

THEDOE FUND, INC., ETAL

Purchased June 15, 2017

Defendant(s)

AFFIDAVIT OF SERVICE

STATE OF NEW YORK: COUNTY OF NEW YORK ss:

DAN KNIGHT BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION, OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

That on August 17, 2017 at 08:15 PM at

297 SMITHWOLD ROAD
SOMERSET, NJ 08873

deponent served the within SUMMONS AND COMPLAINT, CIVIL COVER SHEET, NOTICE OF ELECTRONIC FILING on TERRY COOPER therein named,

AFFIXING
TO DOOR

by affixing a true copy of each to the door of said premises, which is the Defendant's dwelling house/usual place of abode within the state. Deponent was unable, with due diligence to find the Defendant or a person of suitable age and discretion, thereat, having called there on:

July 28, 2017 AT 4:27 PM

August 9, 2017 AT 7:46 AM

August 17, 2017 AT 8:15 PM

MAILING

Deponent enclosed a copy of same in a postpaid wrapper properly addressed to the Defendant at the Defendant's last known residence at

297 SMITHWOLD ROAD
SOMERSET, NJ 08873

and deposited said wrapper in a post office or official depository under exclusive care and custody of the United States Postal Service within New York State on August 22, 2017 by REGULAR FIRST CLASS MAIL in an envelope marked PERSONAL & CONFIDENTIAL and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the person to be served.

Spoke with "MRS. SMITH", NEIGHBOR at 295 SMITHWOLD ROAD SOMERSET NJ who stated that the Defendant lives at the aforementioned address but was unable to divulge the Defendant's place of employment.

PERSON SPOKEN TO REFUSED TO STATE TRUE FIRST AND/OR LAST NAMES

MILITARY
SERVICE

Person spoken to was asked whether the Defendant was in the military service of the State of New York or the United States and received a negative reply. Upon information and belief based upon the conversation and observation as aforesaid deponent avers that the Defendant is not in the military service of the State of New York or the United States as that term is defined in the statutes of the State of New York or the Federal Soldiers and Sailors Civil Relief Act.

Sworn to me on: August 22, 2017

JOSEPH KNIGHT
Notary Public, State of New York
No. 01KN6178241
Qualified in New York County
Commission Expires November 26, 2019

RALPH J MULLEN
Notary Public, State of New York
No. 01MU6238632
Qualified in New York County
Commission Expires April 11, 2019

VINETTA BREWER
Notary Public, State of New York
No. 4949206
Qualified in Bronx County
Commission Expires April 3, 2019


DAN KNIGHT

Invoice #: 676770

UNITED STATES DISTRICT COURT/EASTERN DISTRICT OF NEW YORK

Attorney: DEREK SMITH LAW GROUP,
PLLC

GREGORY BROOKS

Plaintiff(s)

- against -

Index # 17 CV 03626 PKC LB

THE DOE FUND, INC., ETAL

Defendant(s)

Purchased June 15, 2017

AFFIDAVIT OF SERVICE

STATE OF NEW YORK: COUNTY OF NEW YORK ss:

MICHELLE LVOVICH BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION, OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

That on July 21, 2017 at 08:28 PM at

5422 AVENUE O
BROOKLYN, NY 11234

deponent served the within SUMMONS AND COMPLAINT, CIVIL COVER SHEET, NOTICE OF ELECTRONIC FILING on TERRY COOPER therein named,

SUITABLE
AGE

by delivering thereof a true copy of each to "JANE SMITH" a person of suitable age and discretion. Said premises is Defendant's dwelling house within the state. She identified herself as the CO-TENANT of the Defendant.

Deponent further states that he describes the person actually served as follows:

Sex	Skin Color	Hair Color	Age (Approx.)	Height (Approx.)	Weight (Approx.)
FEMALE	BLACK	BALD	60	5'2	105

MAILING

Deponent enclosed a copy of same in a postpaid wrapper properly addressed to the Defendant at the Defendant's last known residence at

5422 AVENUE O
BROOKLYN, NY 11234

and deposited said wrapper in a post office or official depository under exclusive care and custody of the United States Postal Service within New York State on July 26, 2017 by REGULAR FIRST CLASS MAIL in an envelope marked PERSONAL & CONFIDENTIAL and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the person to be served.

PERSON SPOKEN TO REFUSED TO STATE TRUE FIRST AND/OR LAST NAMES

MILITARY
SERVICE

Person spoken to was asked whether the Defendant was in the military service of the State of New York or the United States and received a negative reply. Upon information and belief based upon the conversation and observation as aforesaid deponent avers that the Defendant is not in the military service of the State of New York or the United States as that term is defined in the statutes of the State of New York or the Federal Soldiers and Sailors Civil Relief Act.

Sworn to me on: July 26, 2017

JOSEPH KNIGHT
Notary Public, State of New York
No. 011006178241
Qualified in New York County
Commission Expires November 28, 2019RALPH J MULLEN
Notary Public, State of New York
No. 01MU6236632
Qualified in New York County
Commission Expires April 11, 2019VINETTA BREWER
Notary Public, State of New York
No. 4949208
Qualified in Bronx County
Commission Expires April 3, 2019MICHELLE LVOVICH
License #: 2048202
Invoice #: 676771

UNITED PROCESS SERVICE, INC., 3RD FLOOR, 316 BROADWAY, NEW YORK, NY 10007 - (212) 619-0728 NYCDCA#1102046

Affidavits Concerning Defendant Wiggins

UNITED STATES DISTRICT COURT/EASTERN DISTRICT OF NEW YORK

Attorney: DEREK SMITH LAW GROUP,
PLLC

GREGORY BROOKS

Plaintiff(s)

- against -

Index # 17 CV 03626 PKC LB

THE DOE FUND, INC., ETAL

Purchased June 15, 2017

Defendant(s)

AFFIDAVIT OF DUE DILIGENCE

STATE OF NEW YORK: COUNTY OF NEW YORK ss:

MOHAMED HUSSEIN BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION, OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

DEREK SMITH LAW GROUP, PLLC requested that I serve a copy of the SUMMONS AND COMPLAINT in the above action for personal service upon ANTHONY WIGGINS at

C/O THE DOE FUND, INC.
520 GATES AVENUE
BROOKLYN, NY 11216

Your deponent made proper and diligent effort to serve said process on the above named person(s). I called at the aforementioned address on

Date: 06/26/17 Time: 1104 Reason: AT THE GIVEN ADDRESS IS "THE DOE FUND, INC".
I SPOKE TO AN EMPLOYEE NAMED "JAMES WASHINGTON" WHO TOLD ME THE DEFENDANT IS NO LONGER EMPLOYED.


Your deponent verily believes that he will be unable to effect personal service upon the above named person(s) herein, although your deponent made due and diligent efforts to effect same.

Sworn to me on: June 30, 2017

JOSEPH KNIGHT
Notary Public, State of New York
No. 01KN6178241
Qualified In New York County
Commission Expires November 26, 2019

RALPH J MULLEN
Notary Public, State of New York
No. 01MU6238632
Qualified in New York County
Commission Expires April 11, 2019

VINETTA BREWER
Notary Public, State of New York
No. 4949206
Qualified in Bronx County
Commission Expires April 3, 2019


MOHAMED HUSSEIN
License #: 2047473
Invoice #: 674937

UNITED STATES DISTRICT COURT/EASTERN DISTRICT OF NEW YORK

Attorney: DEREK SMITH LAW GROUP,
PLLC

GREGORY BROOKS

Plaintiff(s)

- against -

Index # 17 CV 03626 PKC LB

THE DOE FUND, INC., ETAL

Purchased June 15, 2017

Defendant(s)

AFFIDAVIT OF DUE DILIGENCE

STATE OF NEW YORK: COUNTY OF NEW YORK ss:

ANGEL GUTIERREZ BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION, OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

DEREK SMITH LAW GROUP, PLLC requested that I serve a copy of the SUMMONS AND COMPLAINT, CIVIL COVER SHEET, NOTICE OF ELECTRONIC FILING in the above action for personal service upon ANTHONY WIGGINS at

2205 2ND AVENUE
APT. 6B
NEW YORK, NY 10029

Your deponent made proper and diligent effort to serve said process on the above named person(s). I called at the aforementioned address on

July 26, 2017 at 1034 Hours and I was unable to serve the defendant. At the given address is an apartment building with the defendant's name not appearing on any bell, mailbox or directory. I knocked on the door to Apt. 6B but I received no answer. I attempted service again on August 3, 2017 at 0618 Hours and I knocked on the door to Apt. 6B and I spoke to the current tenant who told me the defendant is unknown.


Your deponent verily believes that he will be unable to effect personal service upon the above named person(s) herein, although your deponent made due and diligent efforts to effect same.

Sworn to me on: September 5, 2017

JOSEPH KNIGHT
Notary Public, State of New York
No. 01KN6178241
Qualified in New York County
Commission Expires November 26, 2019

RALPH J MULLEN
Notary Public, State of New York
No. 01MU6238632
Qualified in New York County
Commission Expires April 11, 2019

VINETTA BREWER
Notary Public, State of New York
No. 4949206
Qualified in Bronx County
Commission Expires April 3, 2019


ANGEL GUTIERREZ
License #: 1152171
Invoice #: 676772

(212) 619-0728
FAX: (212) 619-2288

UNITED PROCESS SERVICE, INC.

THIRD FLOOR
315 BROADWAY
NEW YORK, NY 10007-1121

E-Mail: info@unitedprocess.com

Web: www.unitedprocess.com

Date Received 07/19/17

DEREK SMITH LAW GROUP, PLLC
30 BROAD STREET, 35TH FLOOR
NEW YORK, NY 10004

Client Code: 10445
(212) 587-0760

ANGEL GUTIERREZ

Index # 17 CV 03626 PKC LB

UNITED STATES DISTRICT COURT/EASTERN DISTRICT OF NEW YORK

Invoice # 676772

Date Purchased 06/15/17

90 Day 09/13/17

Plaintiff: GREGORY BROOKS

Defendant: THE DOE FUND, INC., ETAL

Copies Yes

Recipient(s):

1) ANTHONY WIGGINS **6767721**

SUMMONS AND COMPLAINT, CIVIL COVER
SHEET, NOTICE OF ELECTRONIC FILING

Location: Home: 2205 2ND AVENUE
APT. 6B
NEW YORK, NY 10029

SERVED Date: _____ Time: _____ Serve Sec'y of State _____ Adv. Fee _____ Att. Sending _____

New Address _____

Served on: _____ Title/Relationship _____

Desc: Sex: _____ Skin Color _____ Hair Color _____ Approx Age _____ Height _____ Weight _____

Remarks: **SERVE BY 8/2/17**

7/26/10:34A NO Ans

8/31 6:15A UNKNOWN per TENANT

REASON FOR RETURN

UNKNOWN _____ MOVED _____ NEED APARTMENT # _____

NO SUCH NUMBER _____ NO LONGER EMPLOYED _____

HELD AWAITING INSTRUCTIONS _____ OUT OF BUSINESS _____

POSTAL SEARCH

GOOD AS ADDRESSED _____ UNKNOWN AT ADDRESS GIVEN _____

MOVED, NO FWD ADD _____ FORWARDING ORDER EXPIRED _____

MOTOR VEHICLE SEARCH

D O B, VIN OR PLATE # _____

NO HIT _____ SAME ADDRESS _____ NEW ADDRESS _____

CODE A-1 CHARGE 51 CODE _____ CHARGE _____

CODE P CHARGE 30 CODE _____ CHARGE _____

CODE MD CHARGE 4 CODE _____ CHARGE _____

CODE _____ CHARGE _____ CODE _____ CHARGE _____

8/4

for Alex
8/29

for Alex
8/30

DO NOT PAY FROM THIS INVOICE. A STATEMENT WILL FOLLOW